

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 113

## **HOUSE BILL 2396**

AN ACT

AMENDING TITLE 17, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 17-215; AMENDING SECTIONS 17-340, 41-619.51 AND 41-1758.01, ARIZONA REVISED STATUTES; RELATING TO WILDLIFE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 17, chapter 2, article 2, Arizona Revised Statutes,  
3 is amended by adding section 17-215, to read:

4 17-215. Fingerprint clearance card; employees; volunteers

5 EACH EMPLOYEE AND VOLUNTEER WHO HAS CONTACT WITH CHILDREN OR VULNERABLE  
6 ADULTS AS PART OF THEIR REGULAR DUTIES MUST HAVE A VALID FINGERPRINT  
7 CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.07 OR PROVIDE THE  
8 DEPARTMENT DOCUMENTATION OF THE PERSON'S APPLICATION FOR A FINGERPRINT  
9 CLEARANCE CARD.

10 Sec. 2. Section 17-340, Arizona Revised Statutes, is amended to read:

11 17-340. Revocation, suspension and denial of privilege of  
12 taking wildlife; notice; violation; classification

13 A. Upon conviction or after adjudication as a delinquent juvenile as  
14 defined in section 8-201 and in addition to other penalties prescribed by  
15 this title, the commission, after a public hearing, may revoke or suspend a  
16 license issued to any person under this title and deny the person the right  
17 to secure another license to take or possess wildlife for a period of not to  
18 exceed five years for:

19 1. Unlawful taking, unlawful selling, unlawful offering for sale,  
20 unlawful bartering or unlawful possession of wildlife.

21 2. Careless use of firearms which has resulted in the injury or death  
22 of any person.

23 3. Destroying, injuring or molesting livestock, or damaging or  
24 destroying growing crops, personal property, notices or signboards, or other  
25 improvements while hunting, trapping or fishing.

26 4. Littering public hunting or fishing areas while taking wildlife.

27 5. Knowingly allowing another person to use the person's big game tag,  
28 except as provided by section 17-332, subsection D.

29 6. A violation of section 17-303, 17-304 or 17-341.

30 7. A violation of section 17-309, subsection A, paragraph 1 involving  
31 any unlawful use of aircraft to take, assist in taking, harass, chase, drive,  
32 locate or assist in locating wildlife.

33 B. On conviction or after adjudication as a delinquent juvenile and in  
34 addition to any other penalties prescribed by this title:

35 1. For a first conviction or a first adjudication as a delinquent  
36 juvenile, for unlawfully taking or wounding wildlife at any time or place,  
37 the commission, after a public hearing, may revoke, suspend or deny a  
38 person's privilege to take wildlife for a period of up to five years.

39 2. For a second conviction or a second adjudication as a delinquent  
40 juvenile, for unlawfully taking or wounding wildlife at any time or place,  
41 the commission, after a public hearing, may revoke, suspend or deny a  
42 person's privilege to take wildlife for a period of up to ten years.

43 3. For a third conviction or a third adjudication as a delinquent  
44 juvenile, for unlawfully taking or wounding wildlife at any time or place,

1 the commission, after a public hearing, may revoke, suspend or deny a  
2 person's privilege to take wildlife permanently.

3 ~~C. In accordance with title 41, chapter 6, article 10 and~~  
4 ~~notwithstanding subsection A of this section, any person who is assessed~~  
5 ~~civil damages under section 17-314 for the unlawful taking or possession of~~  
6 ~~wildlife may be denied the right to secure a license to take wildlife until~~  
7 ~~damages have been paid in full.~~

8 C. A PERSON WHO IS ASSESSED CIVIL DAMAGES UNDER SECTION 17-314 SHALL  
9 NOT APPLY FOR OR OBTAIN A LICENSE DURING THE PENDENCY OF AN ACTION FOR  
10 DAMAGES, WHILE MEASURES ARE PURSUED TO COLLECT DAMAGES OR PRIOR TO THE FULL  
11 PAYMENT OF DAMAGES.

12 D. On receiving a report from the licensing authority of a state which  
13 is a party to the wildlife violator compact, adopted under chapter 5 of this  
14 title, that a resident of this state has failed to comply with the terms of a  
15 wildlife citation, the commission, after a public hearing, may suspend any  
16 license issued under this title to take wildlife until the licensing  
17 authority furnishes satisfactory evidence of compliance with the terms of the  
18 wildlife citation.

19 E. In carrying out the provisions of this section the director shall  
20 notify the licensee, within one hundred eighty days after conviction, to  
21 appear and show cause why the license should not be revoked, suspended or  
22 denied. The notice may be served personally or by certified mail sent to the  
23 address appearing on the license.

24 F. The commission shall furnish to license dealers the names and  
25 addresses of persons whose licenses have been revoked or suspended, and the  
26 periods for which they have been denied the right to secure licenses.

27 G. The commission may use the services of the office of administrative  
28 hearings to conduct hearings and to make recommendations to the commission  
29 pursuant to this section.

30 H. Except for a person who takes or possesses wildlife while under  
31 permanent revocation, a person who takes wildlife in this state, or attempts  
32 to obtain a license to take wildlife, at a time when the person's privilege  
33 to do so is suspended, revoked or denied under this section is guilty of a  
34 class 1 misdemeanor.

35 Sec. 3. Section 41-619.51, Arizona Revised Statutes, is amended to  
36 read:

37 41-619.51. Definitions

38 In this article, unless the context otherwise requires:

39 1. "Agency" means the supreme court, the department of economic  
40 security, the department of education, the department of health services, the  
41 department of juvenile corrections, the department of emergency and military  
42 affairs, the state real estate department or the board of examiners of  
43 nursing care institution administrators and assisted living facility  
44 managers.

45 2. "Board" means the board of fingerprinting.

1           3. "Expedited review" means an examination, in accordance with board  
2 rule, of the documents an applicant submits by the board or its hearing  
3 officer without the applicant being present.

4           4. "Good cause exception" means the issuance of a fingerprint  
5 clearance card to an employee pursuant to section 41-619.55.

6           5. "Person" means a person who is required to be fingerprinted  
7 pursuant to this article and any of the following:

- 8           (a) Section 8-105.
- 9           (b) Section 8-322.
- 10          (c) Section 8-509.
- 11          (d) Section 8-802.
- 12          (e) Section 15-183.
- 13          (f) Section 15-534.
- 14          (g) Section 15-1330.
- 15          (h) Section 15-1881.
- 16          (i) SECTION 17-215.
- 17          ~~(i)~~ (j) Section 26-103.
- 18          ~~(j)~~ (k) Section 32-2108.01.
- 19          ~~(k)~~ (l) Section 32-2123.
- 20          ~~(l)~~ (m) Section 36-411.
- 21          ~~(m)~~ (n) Section 36-425.03.
- 22          ~~(n)~~ (o) Section 36-446.04.
- 23          ~~(o)~~ (p) Section 36-594.01.
- 24          ~~(p)~~ (q) Section 36-594.02.
- 25          ~~(q)~~ (r) Section 36-882.
- 26          ~~(r)~~ (s) Section 36-883.02.
- 27          ~~(s)~~ (t) Section 36-897.01.
- 28          ~~(t)~~ (u) Section 36-897.03.
- 29          ~~(u)~~ (v) Section 36-3008.
- 30          ~~(v)~~ (w) Section 41-619.53.
- 31          ~~(w)~~ (x) Section 41-1964.
- 32          ~~(x)~~ (y) Section 41-1967.01.
- 33          ~~(y)~~ (z) Section 41-1968.
- 34          ~~(z)~~ (aa) Section 41-1969.
- 35          ~~(aa)~~ (bb) Section 41-2814.
- 36          ~~(bb)~~ (cc) Section 46-141, subsection A.
- 37          ~~(cc)~~ (dd) Section 46-321.

38       Sec. 4. Section 41-1758.01, Arizona Revised Statutes, is amended to  
39 read:

40       41-1758.01. Fingerprinting division; duties

41       The fingerprinting division is established in the department of public  
42 safety and shall:

43       1. Conduct fingerprint background checks for persons and applicants  
44 who are seeking licenses from state agencies, employment with licensees,  
45 contract providers and state agencies or employment or educational

1 opportunities with agencies that require fingerprint background checks  
2 pursuant to sections 8-105, 8-322, 8-509, 8-802, 15-183, 15-503, 15-512,  
3 15-534, 15-1330, 15-1881, 17-215, 26-103, 32-2108.01, 32-2123, 36-411,  
4 36-425.03, 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01,  
5 36-897.03, 36-3008, 41-619.52, 41-619.53, 41-1964, 41-1967.01, 41-1968,  
6 41-1969 and 41-2814, section 46-141, subsection A and section 46-321.

7 2. Issue fingerprint clearance cards. On issuance, a fingerprint  
8 clearance card becomes the personal property of the cardholder and the  
9 cardholder shall retain possession of the fingerprint clearance card.

10 3. On submission of an application for a fingerprint clearance card,  
11 collect the fees established by the board of fingerprinting pursuant to  
12 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the  
13 monies collected in the board of fingerprinting fund.

14 4. Inform in writing each person who submits fingerprints for a  
15 fingerprint background check of the person's right to petition the board of  
16 fingerprinting for a good cause exception pursuant to sections 41-1758.03 and  
17 41-1758.07.

18 5. Administer and enforce this article.

19 Sec. 5. Exemptions from rule making

20 A. The Arizona game and fish commission is exempt from the rule making  
21 requirements of title 41, chapter 6, Arizona Revised Statutes, for one year  
22 after the effective date of this act for the purpose of adopting rules to  
23 amend or modify the following administrative rules:

24 1. R12-4-304 relating to the lawful method of take.

25 2. R12-4-517 relating to watercraft motor and engine restrictions.

26 B. The rules shall have an immediate effective date. Exempt rules are  
27 exempt from the provisions of title 41, chapter 6, Arizona Revised Statutes,  
28 except that the commission shall file a notice of exempt rule making with the  
29 secretary of state who shall publish the rules in the Arizona administrative  
30 register and the Arizona administrative code.

31 Sec. 6. Emergency

32 This act is an emergency measure that is necessary to preserve the  
33 public peace, health or safety and is operative immediately as provided by  
34 law.

APPROVED BY THE GOVERNOR APRIL 14, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2011.

Passed the House March 10, 20 11

by the following vote: 59 Ayes,

1 Nays, 0 Not Voting

[Signature]  
Speaker of the House

Cheryl Laube  
Chief Clerk of the House

Passed the Senate April 6, 20 11

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]  
President of the Senate

Charmine Billington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

           day of           , 20           

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

at            o'clock            M.

            
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this            day of           , 20           

at            o'clock            M.

            
Secretary of State

H.B. 2396

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 11, 2011,

by the following vote: 56 Ayes,

2 Nays, 2 Not Voting  
With Emergency

Cheryl Laube  
Speaker of the House  
Pro Tempore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of April, 2011,

at 8:21 o'clock A.M.

A. Linda Bendice  
Secretary to the Governor

Approved this 14<sup>th</sup> day of

April, 2011,

at 3:50 o'clock P.M.

Janice K. Brewer  
Governor of Arizona

H.B. 2396

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14<sup>th</sup> day of April, 2011,

at 5:07 o'clock P.M.

Kyla Blumett  
Secretary of State